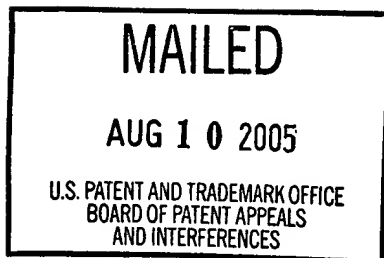The opinion in support of the decision being entered today was <u>not</u> written for publication and is <u>not</u> binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

<u>Ex parte</u> HIROSHI AOKI

Appeal No. 2005-0824
Application No. 09/589,511

ON BRIEF

Before KRASS, DIXON, and BLANKENSHIP, <u>Administrative Patent Judges</u>.

BLANKENSHIP, <u>Administrative Patent Judge</u>.

<u>DECISION ON APPEAL</u>

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-11, which are all the claims in the application.

We affirm.

BACKGROUND

The invention relates to a link connection procedure in a mobile radio system

comprised of a plurality of radio base stations connected to a base station control

apparatus in an asynchronous transmission mode (ATM) fashion. Representative

claim 7 is reproduced below.

7.   A mobile radio system, comprising:

a base station control apparatus; and

plural radio base stations connected in an ATM fashion to the base
station control apparatus,

the base station control apparatus, at start-up, configured to assign an
individual VPI/VCI value to each radio base station,

the base station control apparatus configured to transmit a message
signal comprising a transmitted VPI/VCI value as part of the transmitted
message signal to a selected base station,

each radio base station comprising a central processing unit and an ATM
data reception section for filtering the transmitted message signal based on the
transmitted VPI/VCI value so that the selected base station, upon receipt of the
transmitted message signal, compares the transmitted VPI/VCI value within the
transmitted message signal to the individual VPI/VCI value assigned to the
selected base station,

wherein, when the transmitted VPI/VCI value is coincident with the
individual VPI/VCI value, the message is accepted and when the transmitted
VPI/VCI value is non-coincident with the individual VPI/VCI value, the message
is abandoned and an error state is indicated by the central processing unit,

after the error state continues for a predetermined time duration, the
central processing unit resets the ATM data reception section to place the
individual VPI/VCI value to a no-set condition.

The examiner relies on the following evidence:

Pasternak et al. (Pasternak)   5,648,969   Jul. 15, 1997

Appellant's Admitted Prior Art (APA).

Claims 1-11 stand rejected under 35 U.S.C. § 103 as being unpatentable over

APA and Pasternak.

We refer to the Final Rejection (mailed Dec. 12, 2003) and the Examiner's

Answer (mailed Aug. 27, 2004) for a statement of the examiner's position and to the

Brief (filed Jul. 9, 2004) and the Reply Brief (filed Oct. 21, 2004) for appellant's position

with respect to the claims which stand rejected.

OPINION

Appellant submits that the claims stand or fall together. (Brief at 6.) Consistent

with appellant's grouping, the arguments presented, and the rules in effect at the time

of filing the Brief, we select claim 7 as representative. See 37 CFR § 1.192(c)(7)

(2004).

The examiner finds that appellant's disclosure teaches that the subject matter of

claim 7 is in the prior art, except for the final clause of the claim; i.e., "after the error

state continues for a predetermined time duration, the central processing unit resets the

ATM data reception section to place the individual VPI/VCI value to a no-set condition."

According to appellant, when the message is abandoned and an error state is indicated

with respect to the radio base station (element 11; Fig. 1), prior art systems required that a person go to the radio base station installation to reset the station. (Spec. as filed at 5, ll. 14-23.) The examiner maintains that APA, combined with the teachings of Pasternak, demonstrates prima facie obviousness of the claimed subject matter as a whole.

Appellant argues in the Brief there is a lack of motivation in the prior art to combine APA and Pasternak in such a way as to result in the invention as set forth by instant claim 7. According to appellant, Pasternak's teachings relate to a base station control apparatus, rather than an individual base station. Further, Pasternak's teaching is deemed to be limited to having the base station control apparatus stop monitoring an inactive VPI/VCI value based on lack of activity, rather than duration of an error condition. Appellant also argues that Pasternak's system relates to timing out with respect to lack of transmission, rather than lack of reception, of traffic.

In the responsive arguments in the Answer, the examiner does not dispute that Pasternak's apparatus is not a radio base station, but submits that the reference teaches using a predetermined time duration ("expiration time for time stamp") to automatically reset a connection ("erase expired connection"), referring to column 6, lines 40 through 49 of Pasternak. (Answer at 10.) At pages 13 and 14 of the Answer, the examiner provides reasons in support of the finding that Pasternak relates to a time-out occurring when traffic is not received on a connection, rather than relating to

traffic not being sent. Appellant reiterates, in the Reply Brief, that the prior art teaches that upon indication of an error condition at a radio base station, a person must go to manually reset the station. As such, there is no teaching in APA of a CPU resetting the ATM data reception section to place the individual VPI/VCI value to a no-set condition. Appellant argues, again, that the "reset function" performed by Pasternak is at the base station control apparatus and not at any radio base station.

Claim 7 requires that when the VPI/VCI value that is sent by the base station control apparatus is non-coincident with the individual VPI/VCI value assigned to the selected base station, the message is abandoned and an error state is indicated by the selected base station CPU. At this point, the prior art teaching, according to appellant, is for a person to manually reset the radio base station, requiring the person's presence at the base station.

Pasternak at column 6, line 35 et seq. teaches a VPI/VCI table for automatic updating (Fig. 10). The table includes a time stamp, periodically incremented, which may be reset when the same VPI/VCI cell is read. An "FF" in the table represents an expired, or never encountered, connection. There may be a large number of connections in a standard ATM User-Network Interface. Pasternak teaches that expired connections may be erased, such that a smaller table of active connections is maintained.

We agree with the examiner, for the reasons set forth in the Answer, that the

relevant Pasternak section relates to an ATM data reception section, as opposed to a

transmission section. Pasternak also teaches measuring a time duration with respect

to reception of cells relating to a particular VPI/VCI value. We find that Pasternak

teaches placing an individual VPI/VCI value to a no-set condition -- and thus effecting

the resetting of the data reception section, in the terms of instant claim 7 -- by erasing a

connection. In Pasternak, the connection with respect to a particular VPI/VCI value

may be restored upon reception of a cell related to the particular value.

We agree with the conclusion that the combined teachings of the prior art would

have suggested an improvement over the APA requirement of manual reset of a radio

base station. The combined teachings would have suggested that, upon the base

station CPU determining that an error condition exists, the CPU sets the individual

VPI/VCI value assigned to the station to a "no-set" condition. The resetting would

consist of no more than, at a minimum, clearing the presently assigned VPI/VCI value

so that another may be substituted by the base station control apparatus. In terms of

the prior art example provided at pages 4 and 5 of the instant specification (as filed),

the erroneous value of "2" would be erased, or set to a null value, such that a correct

value may be allocated by the base station control apparatus.

Appellant seems to suggest that the claim 7 language of "a predetermined time"

carries great weight. However, there is no limitation with respect to what the duration

of the "predetermined time" may be. Pasternak teaches that connections may be deemed as expired when a cell relating to a particular VPI/VCI value is not received within a predetermined time. Appellant is correct to the extent that Pasternak does not designate the expired connection as an "error state." APA, however, contains the indication of an error state. The combination would have suggested at least that, upon the lapse of a predetermined time that the expected VPI/VCI value is not received by the radio base station, then the present VPI/VCI value should be erased or set to null.

We have considered all of appellant's arguments in the briefs and agree only to the extent that APA and Pasternak, taken individually, fail to meet the terms of instant claim 7. However, nonobviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references. In re Merck & Co., 800 F.2d 1091, 1097, 231 USPQ 375, 380 (Fed. Cir. 1986) (citing In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981)). The suggestion to combine may come from the prior art, as filtered through the knowledge of one skilled in the art. Motorola, Inc. v. Interdigital Tech. Corp., 121 F.3d 1461, 1472, 43 USPQ2d 1481, 1489 (Fed. Cir. 1997); see also Cable Elec. Prods., Inc. v. Genmark, Inc., 770 F.2d 1015, 1025, 226 USPQ 881, 886-87 (Fed. Cir. 1985) ("[T]he suggestion to modify the art to produce the claimed invention need not be expressly stated in one or all of the references used to show obviousness. 'Rather, the test is what the

combined teachings of the references would have suggested to those of ordinary skill

in the art.'") (quoting In re Keller, 642 F.2d at 425, 208 USPQ at 881).

In our view, the evidence relied upon by the examiner is sufficient to support the

conclusion of prima facie obviousness. We thus sustain the rejection of claims 1-11

under 35 U.S.C. § 103 as being unpatentable over APA and Pasternak.

CONCLUSION

The rejection of claims 1-11 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal

may be extended under 37 CFR § 1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

ERROL A. KRASS   )
Administrative Patent Judge   )
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)
) BOARD OF PATENT
JOSEPH L. DIXON   )   APPEALS
Administrative Patent Judge   )   AND
) INTERFERENCES
)
)
)
)
HOWARD B. BLANKENSHIP   )
Administrative Patent Judge   )

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HARRITY & SNYDER, LLP
11240 WAPLES MILL ROAD
SUITE 300
FAIRFAX, VA 22030